

EXHIBIT N

EXHIBIT N
RIGHT OF ENTRY PERMIT AGREEMENT

City of Long Beach ("City") hereby grants permission to McDonnell Douglas Corporation, a Maryland corporation and a wholly-owned subsidiary of The Boeing Company, a Delaware corporation ("Permittee") to use and occupy approximately fourth tenths (0.4) gross acres of real property located at the southwest corner of Carson Street and Lakewood Boulevard ("permit areas") shown Exhibit "A", attached hereto and by this reference made a part hereof.

The permit areas shall be used and occupied by Permittee subject to the following terms, conditions, and limitations:

1. The permit areas and the improvements thereon shall be used for construction of a park in accordance with Section 8.25.1 of the Douglas Park Development Agreement dated _____, as the same may be thereafter amended, and for no other purpose without the prior written consent of the City Manager of the City ("City Manager"). Notwithstanding the foregoing, the parties acknowledge that Permittee's construction of a City-approved park may require the demolition of existing improvements in, on or under the permit areas.
2. Permittee shall not be charged any rent or other fees or costs (other than standard processing fees) in consideration of its activity, or the rights granted under this Permit.
3. The term of this Permit shall commence on _____, 20____, and shall end at midnight on _____, 20____.
4. City shall have no duty to make any improvement or repair to the permit areas; provided, however, nothing herein shall relieve City of any liability or remediation obligation with respect to any environmental condition in, on or about the permit areas which has not been caused by Permittee. Any and all uses of the permit areas by Permittee, its agents, contractors, and their employees shall be at their sole risk, cost, and expense. Permittee, at its cost, in connection with the permitted activities, shall keep and maintain the permit areas during its use and occupancy thereof, in good order, condition, and repair, free and clear of all rubbish, debris and litter.
5. During its use and occupancy of the permit areas, Permittee shall at all times comply with all laws, ordinances, rules, and regulations of and obtain applicable permits from all federal, state, and local governmental authorities having jurisdiction over the permit areas with respect to Permittee's activities thereon. Notwithstanding the foregoing, Permittee shall have no obligation to remediate any environmental condition, except to the extent caused by Permittee.
6. Permittee shall not assign this Permit or any interest herein nor allow the transfer thereof (whether by operation of law or otherwise), without the prior written consent of City, which shall not be unreasonably withheld, conditioned or delayed. Any attempted transfer or assignment without such consent shall be void and confer no rights whatsoever upon a transferee or assignee.

7. City's authorized representatives shall have access to and across the permit areas during business hours and, in the event of an emergency, at any other time for inspection, repair of publicly-owned utilities and structures, and for fire and police purposes. City, at its cost, in connection with such activities, shall keep and maintain the permit areas during its use and occupancy thereof, in good order, condition, and repair, free and clear of all rubbish, debris and litter. With respect to such access and activities, City shall indemnify, hold harmless and defend Permittee to the same extent as Permittee is obligated to indemnify, hold harmless and defend City pursuant to Section 10 hereafter.

8. The permit areas are subject to all rights or way and entry thereon for the installation, relocation, removal, operation, and maintenance of sewers, pipelines, conduits, and telephone, telegraph, light, heat, and power lines (whether underground or overhead) as may from time to time be determined by City.

9. As a condition precedent to the effectiveness of this Permit, Permittee shall procure and maintain the following insurance at Permittee's sole expense for the duration of this Permit from insurance companies that are admitted to write insurance in the State of California or from nonadmitted insurers that are on California's List of Eligible Surplus Lines Insurers and that have ratings of or equivalent to an A:VIII by A.M. Best Company:

- (a) Commercial general liability insurance (equivalent in coverage scope to Insurance Services Office, Inc. (ISO) form CG 00 01 11 85 or 11 88) in an amount not less than Two Million Dollars (\$2,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) general aggregate. This coverage shall include broad form contractual liability, cross liability protection, independent contractors liability, explosion, collapse and underground hazards (XCU), and sudden and accidental pollution liability. The City, its officials, employees, and agents shall be named as additional insureds, to the extent of the indemnity provided under Section 10, by endorsement (equivalent in coverage scope to ISO form CG 20 12 11 85 or CG 20 26 11 85). Permittee's liability policy is a manuscript form based on the ISO forms with additions and enhancements to meet Permittee's specific needs. The commercial general liability policy meets or exceeds ISO standards in all relevant respects.
- (b) Commercial automobile liability insurance (equivalent in coverage scope to Insurance Services Office, Inc. (ISO) form CA 00 01 06 92) in an amount not less than One Million Dollars (\$1,000,000.00) combined single limit covering symbol 1, "Any Auto".
- (c) Permittee hereby releases the City from, and waives, its entire claim of recovery for loss of or damage to property arising out of or incident to fire, lightning or any other perils normally included in an "all risk" property insurance policy when such property is in, on or about the permit areas, whether or not such loss or damage is due to the negligence of City or Permittee or their respective agents, employees, guests, licensees, invitees or contractors.

Any self-insurance program, self-insured retention or deductible must be approved separately in writing by City's Risk Manager or designee and shall protect the City, its officials, employees, and agents in the same manner and to the same extent as they would have been protected had the policy or policies not contained such self-insurance or deductible provisions. City hereby approves Permittee's self-insurance program.

Permittee shall make available to the City a publicly available internet site containing an electronic memorandum evidencing such insurance coverage, e.g.:

<http://www.marsh.com/MarshPortal/PortalMain?PID=AppMoiFAQ-Terms&CLIENT=900001335>)

All insurance required hereunder shall provide at least thirty (30) days' prior written notice of cancellation to the City (except that ten (10) days prior written notice of cancellation for nonpayment of premium is acceptable). Such insurance shall provide that coverage shall be primary and not contributing to any other insurance or self-insurance maintained by the City, its officials, employees, or agents.

Permittee shall require any subconsultant that Permittee may use in the performance of this Permit to maintain insurance in compliance with the provisions of these terms and conditions.

Such insurance as required herein shall not be deemed to limit Permittee's liability relating to performance under this Permit. The procuring of insurance shall not be construed as a limitation on liability or as full performance of the indemnification and hold harmless provisions of this Permit. City makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Permittee's liability and obligations under this Permit.

Any modification or waiver of the insurance requirements herein shall be made only with the written approval of the City's Risk Manager or designee.

10. Permittee shall indemnify and hold City harmless from and against any and all claims or liability for bodily injury to or death of any person or loss of or damage to any property arising out of the activities of Permittee, its agents, employees, contractors or invitees in, on or about the permit areas except claims and liabilities to the extent caused by any negligence on the part of City, its agents, employees, contractors or invitees. In the absence of any negligence on the part of the City, its agents, employees, contractors or invitees, such indemnity shall include all reasonable costs, attorneys' fees and expenses incurred in the defense of any such claim or any action or proceeding brought thereon.

In the event any action or proceeding is brought against City by reason of any claim falling within the scope of the foregoing indemnity, and in the absence of any negligence on the part of City, Permittee upon written notice from City to Permittee within 20 days after City receives notice of the claim shall defend same at Permittee's expense by counsel reasonably satisfactory to City.

The foregoing indemnity is conditioned upon City providing notice to Permittee within 20 days after City receives notice of any claim or occurrence that is likely to give rise to a

claim that will fall within the scope of the foregoing indemnity and cooperating fully with Permittee in any defense or settlement of the claim.

11. Except as otherwise expressly provided in this Permit, in the event Permittee shall fail or refuse to perform any term, covenant or condition on its part to be performed, within ten (10) days after receipt of written notice from City, or such longer period as may be reasonably necessary under the circumstances, City may terminate this Permit. Permittee shall promptly vacate and surrender the Permit upon the expiration of the ten (10) day notice period unless Permittee shall have cured the default within the ten (10) day notice period or such longer period as may be reasonably necessary under the circumstances.

12. Any notice, demand, request, consent, or communication that either party desires or is required to give to the other party or any other person shall be in writing and either be served personally, by facsimile transmission or sent by prepaid, first-class mail, addressed as follows:

TO CITY: City Manager
 City of Long Beach
 333 West Ocean Boulevard
 Long Beach, California 90802
 FAX No. (562) 570-6583

TO PERMITTEE: McDonnell Douglas Corporation
 c/o Boeing Realty Corporation
 15480 Laguna Canyon Road, Suite 200
 Irvine, California 92618-2114
 Attention: DeDe Soto
 FAX No. (949) 790-1906

Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated upon delivery if personally served or given by facsimile transmission and within forty-eight (48) hours from the time of mailing if mailed as provided in this Section.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

ACCEPTED this ____ day of _____, 20__.

McDONNELL DOUGLAS CORPORATION,
a Maryland corporation

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

"PERMITTEE"

CITY OF LONG BEACH,
a municipal corporation

DATED: _____

By: _____
City Manager

"CITY"

Approved as to form this ____ day of _____, 20__.

ROBERT E. SHANNON, City Attorney

By: _____
Assistant City Attorney